

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-4335

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

NUMAN POMPILIO HERNANDEZ-SORTO,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. James C. Cacheris, Senior District Judge. (CR-01-460-ALL)

Submitted: February 11, 2003

Decided: March 3, 2003

Before LUTTIG, TRAXLER, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Matthew Wartel, BYNUM & JENKINS, Alexandria, Virginia, for Appellant. Paul J. McNulty, United States Attorney, John Thomas Lynch, Jr., Special Assistant United States Attorney, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Numan Pompilio Hernandez-Soto pled guilty to one count of illegal re-entry after deportation in violation of 8 U.S.C. § 1326(a), (b)(2) (2000). He now appeals his sentence of twenty-two months, contending that the district court erred in finding that his prior state felony conviction for possession of cocaine qualified as an aggravated felony under the Sentencing Guidelines.

Specifically, Hernandez-Soto contends that because his state felony conviction for simple possession of cocaine would only be punishable as a misdemeanor under federal law, it cannot qualify as an aggravated felony under the Guidelines. This contention is squarely foreclosed by our recent decision in United States v. Wilson, ___ F.3d ___, 2003 WL 124806 (4th Cir. Jan. 16, 2003).

Accordingly, we affirm Hernandez-Soto's sentence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED